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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,529	07/30/2003	Anthony J. Baerlocher	0112300-753	9259
29159 7590 08/21/2007 BELL, BOYD & LLOYD LLP P.O. Box 1135 CHICAGO, IL 60690				
			EXAMINER THOMASSON, MEAGAN J	
			ART UNIT 3714	PAPER NUMBER
			NOTIFICATION DATE 08/21/2007	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATENTS@BELLBOYD.COM

ED

**Office Action Summary**

Application No.

10/630,529

Applicant(s)

BAERLOCHER, ANTHONY J.

Examiner

Meagan Thomasson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 and 11-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 11-48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/27/03</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 30, 2007 has been entered.

### ***Response to Amendment***

The examiner acknowledges the amendments made to claims 1 and 11-14. Claims 9 and 10 have been canceled; claims 25-28 have been added.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical

Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

**Claims 1,6,11-13,15,20,23-25,30,33-35,37,42,45 and 46 are rejected under 35 U.S.C. 102(e) as being anticipated by Luciano (US 6,705,944 B2).**

Regarding claim 1, Luciano discloses a gaming device comprising a game, an award distributor associated with the game, said award distributor including a plurality of sections situated in a predetermined arrangement on said award distributor, each of said sections defined by one of a plurality of first coordinates and one of a plurality of second coordinates, wherein each first coordinate is associated with a group of the sections including a plurality of the sections and each second coordinate is associated with a group of sections including a plurality of sections as shown in Fig. 2, wherein the first coordinate is an angular coordinate and the second coordinate is a radial coordinate of the outer-most, middle and inner wheels [42,44 and 46, respectively], each of the first coordinates is associated with a group comprising a plurality of sections (i.e. the symbol appearing at a given angular coordinate for any given wheel), and each of the second coordinates is associated with a group comprising a plurality of sections (i.e. the symbols on a wheel for a given radial coordinate).

In column 8, line 18 – col. 10, line 30, Luciano further discloses a plurality of symbols, each of said symbols associated with one of a plurality of awards, wherein each of said plurality of sections of said award distributor is associated with one of said

symbols (Fig. 2, each section defined by an angular coordinate and a radial coordinate contains an award symbol), a section indicator associated with the award distribute (Fig. 2, Pay line), and a processor operable to control a lay of the game by

(a) causing a display of said plurality of symbols and the awards associated with each of said symbols of the award distribute to the player upon initiation of said play of the game,

(b) indicating one of said plurality of sections of the award distributor by:

(i) determining one of the first coordinates associated with the groups of the sections

(ii) independently determining one of the second coordinates of one of the sections in said group of sections, and

(iii) causing the section indicator to indicate the section in the group associated with the determined first and second coordinates, and

(c) providing to the player the award associated with the symbol of the indicated section.

Regarding claims 6 and 30, Luciano discloses one of the sections includes a terminator symbol ("Oops! Lose Spin" Section, Fig. 2).

Regarding claims 11 and 33, Luciano discloses the awards include at least one of a value, a modifier, a multiplier, a free activation, a free spin and a free game (Fig. 2).

Regarding claims 12 and 34, Luciano discloses a probability of being indicated by the section indicator is associated with each of the awards (col. 8, lines 23-26).

Regarding claims 13 and 35, Luciano discloses the processor picks one of the total awards and repeatedly causes the section indicator to indicate section of the award distributor until the awards associated with the symbols on the indicated section accumulate to the total award (col. 8, lines 44-54).

Regarding claims 15 and 37, Luciano discloses the symbols are game elements (Fig. 2).

Regarding claims 20 and 42, Luciano discloses a plurality of the sections include a terminator symbol (Fig. 2, "Oops! Lose A Turn", "Oops! Take Symbol From Bank").

Regarding claims 23 and 45, the award distributor includes an award wheel (Fig. 1 and 2).

Regarding claims 24 and 46, Luciano discloses the gaming device includes a spin initiator controlled by the processor for enabling the player to cause the processor to initiate each movement of one of said wheel and said section indicator (Fig. 4, col. 8, lines 6-9).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

**Claims 2-5,7,8,14,16-19,21,22,26-29,31,32,36,38-41,43,44,47 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Luciano (US 6,705,944 B2).**

Regarding claims 2,5,14,26,29 and 36, *Luciano does not specifically disclose that the gaming device of claim 1 includes a probability of being determined associated with each of the first and second coordinates* as only the first coordinate, i.e. the angular coordinate, is randomly determined. That is, in the primary embodiment of Luciano all wheels are spun such that there is no need to assign a probability of determining a second, i.e. radial, coordinate. However, Luciano discloses that the wheel moving commands may require “any or all of the wheels **42,44** and **46** to be moved” (col. 8, lines 34-36). In this embodiment, it would have been obvious to one of ordinary skill to randomly determine which one wheel of the three possible wheels will be moved, i.e. the radial coordinate, in addition to randomly determining the stopping position, i.e. angular coordinate.

Regarding claims 3,4,27,28 Luciano discloses that the stopping positions of the reels are randomly determined utilizing a random number generator in a manner that is

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well known to one of ordinary skill (col. 8, lines 23-26). *Luciano does not specifically disclose that all of the probabilities are the same.* However, it would have been obvious to one of ordinary skill to weight each possible outcome such that they have an equal probability of occurrence, as evidenced by Broussard (US 6,364,767 B1), who teaches a spinning reel game wherein each outcome have an equal probability of occurring (col. 4, lines 27-30).

Regarding claims 7,8,21,22,31,32,43 and 44, Luciano discloses the reel spin game featuring terminator symbols. *Luciano does not specifically disclose the probability associated with the section including the terminator symbol is greater than the probabilities associated with a plurality of other sections.* However, Luciano does disclose that the reel spin game outcome is randomly determined in a manner that is known to one of ordinary skill. It would have been obvious to one of ordinary skill to weight the outcome probabilities for each section in any manner desired, including to weight the terminator symbol outcome as having a higher chance of occurrence than other symbol outcomes, as evidenced by Broussard (US 6,364,767 B1), who teaches a spinning reel game featuring this outcome weighting method in col. 4, lines 30-34).

Regarding claims 16-19 and 38-41, Luciano discloses the gaming device includes at least one illumination device operable to illuminate indicia to the player (col. 10, lines 54-62). *Luciano does not specifically disclose the illumination device is operable to illuminate the sections of the award distributor.* However, this would be an obvious variation of the section indicator disclosed by Luciano, as evidenced by Broussard (US 6,364,767 B1), who teaches a spinning reel game featuring illumination



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devices operable to illuminate sections of the award distributor in a simultaneous or alternate manner (col. 4, lines 4-14).

Regarding claims 47 and 48, Luciano discloses the steps (a) to (d) are provided through a controller located in the gaming device (Fig. 4, col. 5, line 63-col. 6, line 15). *Luciano does not specifically disclose steps (a) to (d) are provided through a data network and wherein the data network is an internet.* However, Luciano contemplates the gaming device having a network connection for communication purposes (col. 10, lines 38-42). Therefore, the device disclosed by Luciano is capable of receiving operating commands via a network, including an internet, and providing steps (a) to (d) via said network would have been obvious to one of ordinary skill in the art at the time of the invention, as it is notoriously well known in the gaming art to do so.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-48 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meagan Thomasson whose telephone number is (571) 272-2080. The examiner can normally be reached on M-F 830-5.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on (571) 272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Meagan Thomasson  
August 13, 2007

  
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SUPERVISORY PATENT EXAMINER  
TC3700